

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**PENTECOSTAL CHURCH OF GOD,**

**Plaintiff,**

**vs.**

**GUIDEONE MUTUAL INSURANCE  
COMPANY,**

**Defendant.**

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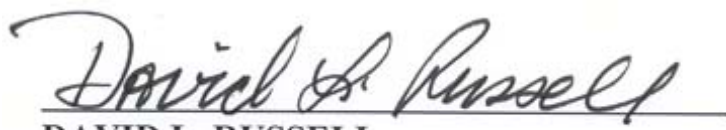
**Case No. CIV-12-901-R**

**ORDER**

Defendant has filed a Notice of Constitutional Questions [Doc. No., 13] purportedly pursuant to Rule 5.1, F. R. Civ. P., and 28 U.S.C. § 2403. However, as Plaintiff points out in its Objection to Defendant's Notice [Doc. No. 16] and as is obvious from a reading of Defendant's third, fourth and fifth affirmative defenses, Defendant is *not* challenging the constitutionality of Oklahoma's punitive damage statute, Okla. Stat. tit. 23, § 9.1, or any federal statute. Thus, Rule 5.1 and Section 2403 are inapplicable. The Court declines to make any certification under 28 U.S.C. § 2403 and/or Rule 5.1(b) because the constitutionality of a statute is not being challenged by Defendant herein.

In the event punitive damages are awarded herein in an amount Defendant contends is unconstitutional as excessive and disproportionate to the harm, Defendant may challenge the amount of punitive damages on constitutional grounds. But Defendant's pleading does not allege that any statute permitting an award of punitive damages is unconstitutional.

IT IS SO ORDERED this 21st day of December, 2012.

  
**DAVID L. RUSSELL**  
**UNITED STATES DISTRICT JUDGE**